

REMARKS

The Rejection under 35 U.S.C. §102 over Pfaff

The rejection of claims 1-4 and 7-11 under 35 U.S.C. §102, as being anticipated by Pfaff (U.S. Patent No. 6,517,628) is respectfully traversed.

Pfaff fails to provide a specific disclosure of an embodiment wherein a pigment mixture includes an effect pigment based on glass flakes. Although Pfaff provides a broad generic disclosure of pigments for its component A at col. 1, lines 38-44, there are no specific embodiments disclosed or specifically directed to in Pfaff which contain a pigment based on glass flakes. In all of the examples of Pfaff, the coated pigments are based on SiO₂ flakes or mica flakes. Thus, the reference provides no specific embodiment or specific evidence to suggest that the reference inventors were in possession of a pigment mixture meeting all elements of the instant claims. A mere broad generic disclosure without any specific direction as to the specific element necessary to provide an anticipation is not an anticipatory disclosure. In other words, such a broad generic disclosure does not "describe" an embodiment therein in accordance with 35 U.S.C. §102. See In re Kollman et al, 201 USPQ 193 (CCPA 1979). If such a reference were anticipatory, it would not be possible to prove nonobviousness for selection inventions within a generic disclosure. Such is not the state of the law.

At least for the above reasons, Pfaff does not anticipate the instant claims and the rejection under 35 U.S.C. §102 should be withdrawn.

The Rejection under 35 U.S.C. §102 over Anselmann

The rejection of claims 1-9 and 11-13 under 35 U.S.C. §102, as being anticipated by

Anselmann (WO 02/090488) is respectfully traversed.

Anselmann discloses pigments based on glass flakes. However, Anselmann fails to provide any specific disclosure of a pigment mixture containing such a glass flake-based pigment and a flake-form, needle-shaped, spherical or crystalline colorant or filler. Although Anselmann generically discusses the option of mixing its glass flake-based pigments with other pigments (see, e.g., paragraph at pages 6-7), the reference does not direct one of ordinary skill in the art to any specific mixture. Also, the Examples in Anselmann include no pigment mixtures at all. As discussed above, a mere generic disclosure is insufficient basis to support an anticipation rejection; see Kollman, *supra*.

At least for the above reasons, Anselmann does not anticipate the instant claims and the rejection under 35 U.S.C. §102 should be withdrawn.

The Rejection under 35 U.S.C. §102 over Ambrosius

The rejection of claims 1-9 and 11-13 under 35 U.S.C. §102, as being anticipated by Ambrosius (WO 03/006588) is respectfully traversed.

Ambrosius is directed to effect pigments based on glass flakes which are coated with alternating layers of high refractive index/low refractive index/high refractive index. In all of the examples and specific embodiments of pigment mixtures in Ambrosius, the glass flake-based pigments include an alternating layer embodiment of $\text{TiO}_2/\text{SiO}_2/\text{TiO}_2$. See, e.g., Use Examples 1-5 of the reference. Thus, Ambrosius fails to disclose any specific embodiment wherein at least one effect pigment based on glass flakes of component A is not one containing alternating layers of TiO_2 , SiO_2 and TiO_2 . Although Ambrosius' broad generic teachings encompass high/low/high embodiments other than $\text{TiO}_2/\text{SiO}_2/\text{TiO}_2$, as discussed above, such mere generic teachings do not support an anticipation rejection; see, e.g.,

Kollmann, *supra*.

At least for the above reasons, Ambrosius does not anticipate the instant claims and the rejection under 35 U.S.C. §102 should be withdrawn.

The Rejections under 35 U.S.C. §103

The rejections of claim 10 under 35 U.S.C. §103, as being obvious over Anselmann or Ambrosius are respectfully traversed.

The discussion of Anselmann and Ambrosius from above is incorporated herein by reference. The distinctions of the claims from these references is thus provided. Claim 10 is additionally distinguished by the failure of the references to teach the relative amounts of the glass flake-based pigment(s) to the other effect pigment(s). Since the references provide no embodiments which fall within the scope of the instant claims, they clearly also fail to provide any embodiment which meets the relative amounts recited in claim 10. Thus, there is no suggestion of the claimed invention from either reference. In the absence of such suggestion, the claimed invention is not rendered obvious and the rejection under 35 U.S.C. §103 should be withdrawn.

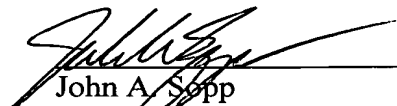
The Obviousness-type Double Patenting Rejection

The obviousness-type double patenting rejection of claims 1-9 and 11-13 over the claims of U.S. Patent No. 6,517,628 (Pfaff) is respectfully traversed. The Pfaff reference is distinguished above and the discussion thereof is incorporated herein by reference. Since the disclosure of a whole of Pfaff fails to render the current claims obvious to one of ordinary skill in the art, the current claims are clearly not obvious variants of the Pfaff claims, for the same reasons. Thus, the obviousness-type double patenting rejection should be withdrawn.

It is submitted that the claims are in condition for allowance. However, the Examiner is kindly invited to contact the undersigned to discuss any unresolved matters.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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